

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WAYNE ROY HONSINGER,

Petitioner,

v.

SHERI BURT,

Respondent.

CASE NO. 2:06-10720

JUDGE DENISE PAGE HOOD

MAGISTRATE JUDGE PAUL J. KOMIVES

MEMORANDUM OPINION AND ORDER GRANTING PETITIONER'S MOTION  
FOR LEAVE TO AMEND

Petitioner Carlos Lott is a state prisoner confined at the Bellamy Creek Correctional Facility in Ionia, Michigan. On February 17, 2006, petitioner filed a *pro se* application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 10, 2006, petitioner filed this motion to amend his habeas application. Petitioner does not seek to add any new claim, but to include a state court docket sheet which he contends supports his claim. Rule 15 of the Federal Rules of Civil Procedure, which is applicable to this habeas corpus action, *see Mayle v. Felix*, 545 U.S. 644, \_\_\_, 125 S. Ct. 2562, 2569, 2005 WL 1469153, at \*7 (June 23, 2005); 28 U.S.C. § 2242, provides that “[a] party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served[.]” FED. R. CIV. P. 15(a). Petitioner’s request for leave to amend was filed prior to respondent’s answer, and thus is permitted as a matter of course. Further, respondent has not filed a response to petitioner’s motion to amend. Because the motion is unopposed, leave to amend is appropriate. *See United States ex rel. McCoy v. California Medical Review, Inc.*, 723

F. Supp. 1363, 1366 (N.D. Cal. 1989).

Accordingly, it is ORDERED that petitioner's motion for leave to amend his petition is hereby GRANTED. The document submitted by petitioner will be considered in resolving petitioner's habeas claims. The attention of the parties is drawn to FED. R. CIV. P. 72(a), which provides a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1). However, in the absence of a contrary order of the District Judge, the filing of an appeal will not affect the deadlines set forth above.

IT IS SO ORDERED.

s/Paul J. Komives  
PAUL J. KOMIVES  
UNITED STATES MAGISTRATE JUDGE

Dated: 12/18/06

The undersigned certifies that a copy of the foregoing order was served on the attorneys of record by electronic means or U.S. Mail on December 18, 2006.

s/Eddrey Butts  
Case Manager